



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants:	Peter Charles Astles, et al.		
Serial No.:	10/500,517	Case: 22059P	Art Unit: 1625
Filed:	June 29, 2004		
For:	AZA-CYCLIC COMPOUNDS AS MODULATORS OF ACETYLCHOLINE RECEPTORS		Examiner: Seaman, D. Margaret M

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION OF KATHLEEN M. KLUTKOWSKI**

Sir:

I, Kathleen M. Klutkowski, hereby declare the following:

1. I have been employed by Merck & Co., Inc. since 1970, and currently hold the title of Patent Docket Specialist in the Legal Administration Department.
2. My job responsibilities at Merck include docketing communications received from the United States Patent & Trademark Office, including Office Actions and Notices of Allowance. Such communications are stamped on the date they are received. Relevant information related to the communication, such as date received and response due date, are entered into an intellectual property management database system.

Serial No.: 10/500,517  
Case No.: 22059P  
Page 2

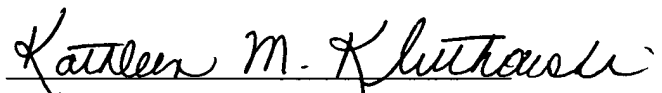
3. On January 18, 2008, I received a Notice of Abandonment dated January 16, 2008, for U.S. patent application serial no. 10/500,517 from the U.S. Patent and Trademark Office. A copy of the first page of the Notice of Abandonment is attached to this declaration as "Exhibit A".

4. I reviewed the docket record for application No. 10/500,517 and found no record of receipt of a Notice of Allowance and Issue Fee due. The most recent communication in our file prior to receipt of the Notice of Allowance was a July 11, 2007 Amendment. A copy of the docket record for Application No. 10/500,517, as of February 25, 2008, is attached at "Exhibit B".

5. I hereby declare that all statements made herein of my own knowledge are true and that all statement made of information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

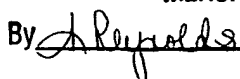
Respectfully submitted,

Date: March 17, 2008

  
Kathleen M. Klutkowski

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below.

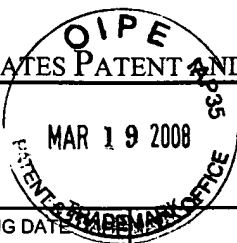
MERCK & CO., INC.

By  Date 3/17/08

## EXHIBIT A



## UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,517	06/29/2004	Peter Charles Astles	22059P	8378

7590  
MERCK AND CO., INC  
P O BOX 2000  
RAHWAY, NJ 07065-0907

01/16/2008

Reply due  
by 2/16/08

EXAMINER

SEAMAN, D MARGARET M

ART UNIT PAPER NUMBER

1625

MAIL DATE DELIVERY MODE

01/16/2008

PAPER

**Notice of Abandonment**

This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission date \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
    - (1) a timely filed amendment which places the application in condition for allowance;
    - (2) a timely filed Notice of Appeal (with appeal fee);
    - (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
  - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission date \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_.  
The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☒ The issue fee and publication fee, if applicable, has not been recieved.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Trasmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filling of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch  
Office of Data Management

## EXHIBIT B

Case #	22059P	Attorney	John C. Todaro
Country	United States	Foreign Agent	
Case Type	REG - REGULAR	Division	
Relation Type	ORG - ORIGINAL	Current Owner	MERCK & CO., INC.
Filing Type	PCT - PATENT COOPERATION	Previous Owner	
Number		See Notes ?	

**AZA-CYCLIC COMPOUNDS AS MODULATORS OF ACETYLCHOLINE**

Inventors	Licenses	Other Nos	Related Id	Title	Misc Text	Attorney Notes	Remarks
Filing Data	Add Info	More Data	Actions	Abstract	Expenses	Data Coordination	External Files
Status	FIL - Filed		First Filing Date	1/17/2002	National Filing Date	6/29/2004	
Sub Status			Sub Status Date		Parent Tax Base Date		
Parent Country	Patent Cooperation Treaty		Parent Filing Date	7/29/2002	Parent Expiration Date		
Parent Number	US2002/021297		Parent Grant Date				
Application Number			Application Date	7/29/2002	Tax Base Date		
Patent Number	10/500517		Grant Date		Next Tax Due Date		
Publication Number			Publication Date		Expiration Date		
Assignment	ASSIGNMENT RECORDED		Ind. Claims/Designs		Multiple Designs		
Convention Type			Total Claims	57	Designated States		
Priority			Total Classes		Classification Number		
Created: 2/23/2006			Updated: 1/18/2008 4:12:37 PM		By: LAN		

IPMaster (v1.5.3) - [Patent 1 of 1]

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FAILURE TO PAY REQUIRED ISSUE FEE AND PUBLICATION FEE - NOTICE OF ABANDONMENT MEMO

OK Cancel

Action	Inventors	Filing Date	Licenses	Taken	Action Due	Deadline Date	Completed Date	Other Nos	More Data	Related Id	Title	Abstract	Misc Text	Expenses	Attorney Notes	Data Coordination	Remarks	External Files
PRE							8/29/2004											PatentActionID
NAC							11/18/2004											389066
COM							4/4/2006				CHANGE OF ATTY ADDRESS TO USPTO							389067
COM							4/21/2006				NOTICE OF ACCEPTANCE OF POWER OF							394600
RRM							12/7/2006											396658
AMM							3/16/2007											419784
NAB							1/16/2008				FAILURE TO PAY REQUIRED ISSUE							431067
SEQ						3/16/2005	9/22/2004				COMMUNICATION - APPLICANT RESPECTFULLY							462082
PCR						5/4/2006	4/13/2006				CHANGE OF ATTY ADDRESS-POA							389068
RST						6/6/2007	1/5/2007											394601
PCR						2/5/2007	1/11/2007				RESTRICTION REQ							419786
AMN						9/16/2007	6/11/2007											422617
PCR						7/11/2007	6/20/2007				AMENDMENT							431068
COM						2/16/2008					FAILURE TO PAY REQUIRED ISSUE FEE AND							440363
*																		462081

Created: 2/23/2006 Updated: 1/18/2008 4:12:37 PM By: LAN